

manner that ensures that the Administrator is able to make payments under the program not later than the expiration of the 45-day period which begins on October 29, 2002.

(Pub. L. 107-252, title I, §106, Oct. 29, 2002, 116 Stat. 1673.)

## SUBCHAPTER II—COMMISSION

### PART A—ESTABLISHMENT AND GENERAL ORGANIZATION

#### SUBPART 1—ELECTION ASSISTANCE COMMISSION

##### § 15321. Establishment

There is hereby established as an independent entity the Election Assistance Commission (hereafter in this subchapter referred to as the “Commission”), consisting of the members appointed under this subpart. Additionally, there is established the Election Assistance Commission Standards Board (including the Executive Board of such Board) and the Election Assistance Commission Board of Advisors under subpart 2 of this part (hereafter in this subpart referred to as the “Standards Board” and the “Board of Advisors”, respectively) and the Technical Guidelines Development Committee under subpart 3 of this part.

(Pub. L. 107-252, title II, §201, Oct. 29, 2002, 116 Stat. 1673.)

##### § 15322. Duties

The Commission shall serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections by—

- (1) carrying out the duties described in subpart 3 of this part (relating to the adoption of voluntary voting system guidelines), including the maintenance of a clearinghouse of information on the experiences of State and local governments in implementing the guidelines and in operating voting systems in general;
- (2) carrying out the duties described in part B of this subchapter (relating to the testing, certification, decertification, and recertification of voting system hardware and software);
- (3) carrying out the duties described in part C of this subchapter (relating to conducting studies and carrying out other activities to promote the effective administration of Federal elections);
- (4) carrying out the duties described in part D of this subchapter (relating to election assistance), and providing information and training on the management of the payments and grants provided under such part;
- (5) carrying out the duties described in part B of subchapter III of this chapter (relating to the adoption of voluntary guidance); and
- (6) developing and carrying out the Help America Vote College Program under subchapter V of this chapter.

(Pub. L. 107-252, title II, §202, Oct. 29, 2002, 116 Stat. 1673.)

##### § 15323. Membership and appointment

###### (a) Membership

###### (1) In general

The Commission shall have four members appointed by the President, by and with the advice and consent of the Senate.

###### (2) Recommendations

Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the Member of Congress involved.

###### (3) Qualifications

Each member of the Commission shall have experience with or expertise in election administration or the study of elections.

###### (4) Date of appointment

The appointments of the members of the Commission shall be made not later than 120 days after October 29, 2002.

###### (b) Term of service

###### (1) In general

Except as provided in paragraphs (2) and (3), members shall serve for a term of 4 years and may be reappointed for not more than one additional term.

###### (2) Terms of initial appointees

As designated by the President at the time of nomination, of the members first appointed—

- (A) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 2 years; and
- (B) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

###### (3) Vacancies

###### (A) In general

A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

###### (B) Expired terms

A member of the Commission shall serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

###### (C) Unexpired terms

An individual appointed to fill a vacancy shall be appointed for the unexpired term of the member replaced.

###### (c) Chair and vice chair

###### (1) In general

The Commission shall select a chair and vice chair from among its members for a term of 1

year, except that the chair and vice chair may not be affiliated with the same political party.

**(2) Number of terms**

A member of the Commission may serve as the chairperson and vice chairperson for only 1 term each during the term of office to which such member is appointed.

**(d) Compensation**

**(1) In general**

Each member of the Commission shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5.

**(2) Other activities**

No member appointed to the Commission under subsection (a) of this section may engage in any other business, vocation, or employment while serving as a member of the Commission and shall terminate or liquidate such business, vocation, or employment before sitting as a member of the Commission.

(Pub. L. 107-252, title II, §203, Oct. 29, 2002, 116 Stat. 1674.)

**§ 15324. Staff**

**(a) Executive Director, General Counsel, and other staff**

**(1) Executive Director**

The Commission shall have an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5.

**(2) Term of service for Executive Director**

The Executive Director shall serve for a term of 4 years. An Executive Director may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

**(3) Procedure for appointment**

**(A) In general**

When a vacancy exists in the position of the Executive Director, the Standards Board and the Board of Advisors shall each appoint a search committee to recommend at least three nominees for the position.

**(B) Requiring consideration of nominees**

Except as provided in subparagraph (C), the Commission shall consider the nominees recommended by the Standards Board and the Board of Advisors in appointing the Executive Director.

**(C) Interim service of General Counsel**

If a vacancy exists in the position of the Executive Director, the General Counsel of the Commission shall serve as the acting Executive Director until the Commission appoints a new Executive Director in accordance with this paragraph.

**(D) Special rules for interim Executive Director**

**(i) Convening of search committees**

The Standards Board and the Board of Advisors shall each appoint a search com-

mittee and recommend nominees for the position of Executive Director in accordance with subparagraph (A) as soon as practicable after the appointment of their members.

**(ii) Interim initial appointment**

Notwithstanding subparagraph (B), the Commission may appoint an individual to serve as an interim Executive Director prior to the recommendation of nominees for the position by the Standards Board or the Board of Advisors, except that such individual's term of service may not exceed 6 months. Nothing in the previous sentence may be construed to prohibit the individual serving as the interim Executive Director from serving any additional term.

**(4) General Counsel**

The Commission shall have a General Counsel, who shall be appointed by the Commission and who shall serve under the Executive Director. The General Counsel shall serve for a term of 4 years, and may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

**(5) Other staff**

Subject to rules prescribed by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

**(6) Applicability of certain civil service laws**

The Executive Director, General Counsel, and staff of the Commission may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of that title.

**(b) Experts and consultants**

Subject to rules prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5 by a vote of the Commission.

**(c) Staff of Federal agencies**

Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this chapter.

**(d) Arranging for assistance for Board of Advisors and Standards Board**

At the request of the Board of Advisors or the Standards Board, the Commission may enter into such arrangements as the Commission considers appropriate to make personnel available to assist the Boards with carrying out their duties under this subchapter (including contracts with private individuals for providing temporary personnel services or the temporary detailing of personnel of the Commission).

**(e) Consultation with Board of Advisors and Standards Board on certain matters**

In preparing the program goals, long-term plans, mission statements, and related matters for the Commission, the Executive Director and staff of the Commission shall consult with the Board of Advisors and the Standards Board.

(Pub. L. 107-252, title II, §204, Oct. 29, 2002, 116 Stat. 1675.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

**§ 15325. Powers**

**(a) Hearings and sessions**

The Commission may hold such hearings for the purpose of carrying out this chapter, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this chapter. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

**(b) Information from Federal agencies**

The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this chapter. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

**(c) Postal services**

The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

**(d) Administrative support services**

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this chapter.

**(e) Contracts**

The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 6101 of title 41.

(Pub. L. 107-252, title II, §205, Oct. 29, 2002, 116 Stat. 1677.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (d), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

CODIFICATION

In subsec. (e), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes of the United

States (41 U.S.C. 5)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

**§ 15326. Dissemination of information**

In carrying out its duties, the Commission shall, on an ongoing basis, disseminate to the public (through the Internet, published reports, and such other methods as the Commission considers appropriate) in a manner that is consistent with the requirements of chapter 19 of title 44 information on the activities carried out under this chapter.

(Pub. L. 107-252, title II, §206, Oct. 29, 2002, 116 Stat. 1677.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

**§ 15327. Annual report**

Not later than January 31 of each year (beginning with 2004), the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate detailing its activities during the fiscal year which ended on September 30 of the previous calendar year, and shall include in the report the following information:

(1) A detailed description of activities conducted with respect to each program carried out by the Commission under this chapter, including information on each grant or other payment made under such programs.

(2) A copy of each report submitted to the Commission by a recipient of such grants or payments which is required under such a program, including reports submitted by States receiving requirements payments under subpart 1 of part D of this subchapter, and each other report submitted to the Commission under this chapter.

(3) Information on the voluntary voting system guidelines adopted or modified by the Commission under subpart 3 of this part and information on the voluntary guidance adopted under part B of subchapter III of this chapter.

(4) All votes taken by the Commission.

(5) Such other information and recommendations as the Commission considers appropriate.

(Pub. L. 107-252, title II, §207, Oct. 29, 2002, 116 Stat. 1677.)

REFERENCES IN TEXT

This chapter, referred to in pars. (1) and (2), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

**§ 15328. Requiring majority approval for actions**

Any action which the Commission is authorized to carry out under this chapter may be car-

ried out only with the approval of at least three of its members.

(Pub. L. 107-252, title II, § 208, Oct. 29, 2002, 116 Stat. 1678.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

### § 15329. Limitation on rulemaking authority

The Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under section 1973gg-7(a) of this title.

(Pub. L. 107-252, title II, § 209, Oct. 29, 2002, 116 Stat. 1678.)

### § 15330. Authorization of appropriations

In addition to the amounts authorized for payments and grants under this subchapter and the amounts authorized to be appropriated for the program under section 15523 of this title, there are authorized to be appropriated for each of the fiscal years 2003 through 2005 such sums as may be necessary (but not to exceed \$10,000,000 for each such year) for the Commission to carry out this subchapter.

(Pub. L. 107-252, title II, § 210, Oct. 29, 2002, 116 Stat. 1678.)

#### SUBPART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

### § 15341. Establishment

There are hereby established the Election Assistance Commission Standards Board (hereafter in this subchapter referred to as the “Standards Board”) and the Election Assistance Commission Board of Advisors (hereafter in this subchapter referred to as the “Board of Advisors”).

(Pub. L. 107-252, title II, § 211, Oct. 29, 2002, 116 Stat. 1678.)

### § 15342. Duties

The Standards Board and the Board of Advisors shall each, in accordance with the procedures described in subpart 3 of this part, review the voluntary voting system guidelines under such subpart, the voluntary guidance under subchapter III of this chapter, and the best practices recommendations contained in the report submitted under section 15382(b) of this title.

(Pub. L. 107-252, title II, § 212, Oct. 29, 2002, 116 Stat. 1678.)

#### REFERENCES IN TEXT

Subchapter III of this chapter, referred to in text, was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which is classified principally to subchapter III (§15481 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

### § 15343. Membership of Standards Board

#### (a) Composition

##### (1) In general

Subject to certification by the chair of the Federal Election Commission under subsection (b) of this section, the Standards Board shall be composed of 110 members as follows:

(A) Fifty-five shall be State election officials selected by the chief State election official of each State.

(B) Fifty-five shall be local election officials selected in accordance with paragraph (2).

##### (2) List of local election officials

Each State’s local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall select (under a process supervised by the chief election official of the State) a representative local election official from the State for purposes of paragraph (1)(B). In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official for purposes of such paragraph, except that under such a procedure the individual selected may not be a member of the same political party as the chief election official.

##### (3) Requiring mix of political parties represented

The two members of the Standards Board who represent the same State may not be members of the same political party.

#### (b) Procedures for notice and certification of appointment

##### (1) Notice to chair of Federal Election Commission

Not later than 90 days after October 29, 2002, the chief State election official of the State shall transmit a notice to the chair of the Federal Election Commission containing—

(A) the name of the State election official who agrees to serve on the Standards Board under this subchapter; and

(B) the name of the representative local election official from the State selected under subsection (a)(2) of this section who agrees to serve on the Standards Board under this subchapter.

##### (2) Certification

Upon receiving a notice from a State under paragraph (1), the chair of the Federal Election Commission shall publish a certification that the selected State election official and the representative local election official are appointed as members of the Standards Board under this subchapter.

##### (3) Effect of failure to provide notice

If a State does not transmit a notice to the chair of the Federal Election Commission under paragraph (1) within the deadline described in such paragraph, no representative from the State may participate in the selection of the initial Executive Board under subsection (c) of this section.